

1 C. DENNIS LOOMIS, Bar No. 82359  
2 BAKER & HOSTETLER LLP  
3 12100 Wilshire Boulevard, 15th Floor  
4 Los Angeles, California 90025-7120  
Telephone: 310.820.8800  
Facsimile: 310.820.8859  
Email: cdloomis@bakerlaw.com

5 Attorneys for Plaintiff  
6 GLOBEFILL INCORPORATED, a Canadian  
corporation

7  
8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10  
11 GLOBEFILL INCORPORATED, a  
12 Canadian corporation,

13 Plaintiff,  
14 v.  
15

16 ELEMENTS SPIRITS, INC., a  
17 California corporation; KIM BRANDI,  
an individual,

18 Defendants.

CV10 2034 CBM PLA  
Case No.

COMPLAINT FOR DAMAGES AND  
INJUNCTION FOR TRADEMARK  
INFRINGEMENT AND UNFAIR  
COMPETITION

DEMAND FOR JURY TRIAL

19 Globefill Incorporated, by its attorneys, as its complaint against Defendants,  
20 alleges as follows:

21 **PARTIES AND JURISDICTION**

22 1. Globefill Incorporated (hereinafter "Globefill"), is a Canadian  
23 corporation with its principal place of business at 309 Alfred Street, Kingston,  
24 Ontario, Canada K7L3S4.

25 2. Upon information and belief, defendant Elements Spirits, Inc.  
26 (hereinafter "Elements") is a California corporation with its principal place of  
27 business at 265 S. Arroyo Parkway, Suite 308, Pasadena, California 91105.

2010 MAR 22 AM 10:37  
CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

FILED

BAKER & HOSTETLER LLP  
ATTORNEYS AT LAW  
LOS ANGELES

1       3. Upon information and belief, defendant Kim Brandi (“Brandi”) is an  
2 individual residing at 2236 Fairglen Place, Corona, California 92881 and is the  
3 Chief Executive Officer of defendant Elements (Elements and Brandi hereinafter  
4 collectively “Defendants”).

5       4. This is an action for trademark infringement and related claims of  
6 unfair competition under the Lanham Act, 15 U.S.C. §1125(a). This Court has  
7 jurisdiction of this action under 28 U.S.C. §§1331, 1332, 1338(a)-(b) and 1367(a).  
8 Venue is proper in this district under 28 U.S.C. §§1391 and 1400(a).

## **STATEMENT OF FACTS**

10        5.      Globefill is the owner of Crystal Head vodka which it has promoted  
11 and sold throughout the United States since September 2008 in an inherently  
12 distinctive skull shaped bottle packaging. Globefill is the owner of the Skull Bottle  
13 Design packaging trademark (hereinafter "Skull Bottle Mark") for vodka as shown  
14 in Exhibit A. Globefill is also the owner of U.S. Application Serial Nos.  
15 77/693,600 and 77/693,594 for the trademarks CRYSTAL HEAD & "Skull Bottle"  
16 Design, attached hereto as Exhibit B.

17       6.     Globefill has committed a significant amount of time and expense to  
18 conceive and develop its Skull Bottle Mark, and its marketing of its Crystal Head  
19 vodka packaged in its Skull Bottle Mark has centered on Meso-American  
20 observations of the Day of the Dead, which in turn represents rebirth and new  
21 beginnings. Globefill is associated with the famous actor and entertainer, Dan  
22 Aykroyd, who has been a centerpiece of Globefill's promotion of its Crystal Head  
23 vodka and its unique Skull Bottle Mark. Because Globefill's association with Mr.  
24 Aykroyd, the kickoff meeting for Crystal Head vodka was held at House of Blues  
25 in Anaheim (a restaurant and club chain in which Mr. Aykroyd is a partner in  
26 ownership) in late September 2008. This sales meeting was followed by a well  
27 publicized bottle signing by Mr. Aykroyd at Hi Times along with the general  
28 release of Crystal Head vodka for sale across Southern California independent

1 stores and "on premise" outlets. This pattern was repeated in the initial launch  
2 markets of Florida, Louisiana, Texas and Nevada. In each of these markets, launch  
3 meetings were held with the respective distributor sales forces at the House of  
4 Blues locations in Orlando, New Orleans, Dallas and Houston and well publicized  
5 bottle signings were held along with visits by Mr. Aykroyd to key "on premise"  
6 accounts. In addition there was extensive media coverage including radio and  
7 television interviews where Mr. Aykroyd spoke about the origins of the product  
8 packaging and the tie to the Mexican Day of the Dead celebrations as well as a  
9 number of print interviews in each location. The net result of all this activity was  
10 that they sold out of their initial first year projection of 5,000 cases in about thirty  
11 days.

12 7. In light of this success, the decision was made to rollout Crystal Head  
13 vodka across the United States using the same launch pattern of distributor sales  
14 meetings (at the House of Blues wherever possible), media interviews and bottle  
15 signings. This activity has resulted in one of the most successful launches in the  
16 history of distilled spirits according to a variety of third parties, including Adams  
17 Beverage Media, who have cited Crystal Head vodka as a "brand to watch." The  
18 combination of Globefill's distinctive skull product packaging design and its  
19 expansive marketing activities has created substantial goodwill in Globefill's skull  
20 design package during the two years it has been on the market. Globefill is now  
21 selling in 47 states, and Mr. Aykroyd has done bottle signings in 23 states with over  
22 45 signings in total. The signings have attracted over 1000 people per event. Each  
23 opening has been preceded by advertising for the event and included signings of the  
24 bottle packaging by Mr. Aykroyd. The vodka has been so well received that, as of  
25 January 2010, it has received over 535,000 hits on its website,  
26 www.crystaldheadvodka.com and there are over 70,000 Google references to the  
27 product.  
28

1       8. On March 10, 2010, Mr. Aykroyd also appeared as a keynote speaker  
2 at the Nightclub & Bar Convention and Trade Show in Las Vegas, during which he  
3 promoted Globefill's Crystal Head vodka and Skull Bottle Mark.

4       9. As a result of Globefill's extensive marketing efforts, its high-profile  
5 and widespread promotional activity, and the highly distinctive and unique nature  
6 of Globefill's Skull Bottle Mark, Globefill's Skull Bottle Mark has become well-  
7 known in the on-premises bar and restaurant trade and among the public as a  
8 source-identifier of Globefill's Crystal Head vodka.

9       10. Upon information and belief, Defendants are promoting a product  
10 called KAH Tequila using a highly similar product packaging. Compare Exhibit A  
11 (depicting Globefill's product packaging) and Exhibit C (depicting Defendants'  
12 product packaging).

13       11. Upon information and belief, Defendants' are trading on Globefill's  
14 marketing themes of Meso-American Day of the Dead celebration and rebirth and  
15 new beginnings. Defendants' March 1, 2010 press release in "The Polished Palate"  
16 tracked such advertising themes by referring to its product's "cultural roots in Aztec  
17 and Meso-American observances of Day of the Dead, which in turn represents  
18 rebirth and new beginnings."

19       12. Upon information and belief, the Chief Operating Officer of Defendant  
20 Elements, Chris Melendez, in Elements' March 1, 2010 press release, stated that the  
21 KAH Tequila "easily fits in the House of Blues or a Mexican Grandmother's  
22 kitchen" (emphasis added).

23       13. Upon information and belief, during the March 2010 Nightclub & Bar  
24 Convention and Trade Show, the Spring 2010 edition of the Liquid Living  
25 Magazine, of which defendant Brandi is the publisher, was distributed to attendees.  
26 That edition of defendant Brandi's Liquid Living Magazine featured an article  
27 about Defendants' KAH Tequila showing its product packaging. Exhibit C. This  
28 article again tracked Meso-American theme.

14. During a telephone conversation between counsel for the parties on March 18, 2010, counsel for Defendants, Robert A. Rivas of Adorno & Yoss, stated that Defendants have experienced instances of actual confusion. In particular, the following conversation took place:

Mr. Rivas: "My client has told me that people have been going up to them [Elements] asking them [Elements] if they are associated with the vodka."

Globefill's counsel: "Did you just say that people have been coming up to your client to ask whether they [Elements] were associated with the vodka."

Mr. Rivas: "Yeah, John, you are an IP lawyer. Nobody can own the skull-shaped bottle. In fact, we may have a cross-claim on this issue."

Globefill's counsel: "Please! If you are going to word it that way. So there's been actual confusion the other way too?"

Mr. Rivas: "Yes, because people do not believe that anyone can own a skull-shaped bottle."

## COUNT I:

**UNFAIR COMPETITION AND FALSE DESIGNATION OF ORIGIN  
IN VIOLATION OF LANHAM ACT § 43(A); 15 U.S.C. §1125(a)**

15. Globefill hereby repeats, and incorporates by reference, the allegations set forth in paragraphs 1 through 14 herein.

16. Defendants' use of the Skull Bottle Mark in association with a competing alcoholic product constitutes unfair competition and a false designation of origin that is likely to deceive customers and prospective customers concerning the source of Defendants' products, in violation of § 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

1           17. Defendants' actions are likely to cause confusion or mistake among  
2 the public as to the true origin and sponsorship of Defendants' products, and to  
3 confuse the public into believing that Defendants' products are somehow associated  
4 with Globefill, in violation of section 43(a) of the Lanham Act. 15 U.S.C. §  
5 1125(a).

6           18. Upon information and belief, all of the acts complained of herein by  
7 defendant Elements were and are under the direction and control of defendant  
8 Brandi.

9           19. By the aforesaid acts, Defendants have falsely designated the origin,  
10 quality and nature of their goods and business and have falsely described and  
11 represented same, causing likelihood of confusion and constituting unfair  
12 competition in violation of Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)).  
13 Unless enjoined by this Court from so doing, Defendants will continue to engage in  
14 its acts of false representation and designation as complained of herein, to the  
15 irreparable damage and injury of Globefill.

16           20. Upon information and belief, the aforesaid acts of false designation of  
17 origin by Defendants have been undertaken with knowledge of Globefill's  
18 exclusive rights to the Skull Bottle Mark, and are willful, entitling Globefill to an  
19 award of treble damages and attorneys' fees in bringing and maintaining this action,  
20 pursuant to Section 35(b) of the Trademark Act, 15 U.S.C. § 1117(b).

21           WHEREFORE, plaintiff Globefill requests judgment as follows:

22           A. That Defendants jointly and severally, along with their officers, agents,  
23 servants, employees, attorneys, confederates, and all other persons in active concert  
24 or participation with Defendants to whom notice of the injunction is given by  
25 personal service or otherwise, be enjoined, at first preliminarily and, thereafter,  
26 permanently, from making any use of the Skull Bottle Mark in any manner  
27 whatsoever;

1           B. That Defendants jointly and severally be ordered to deliver up to the  
2 plaintiff for destruction all materials comprising, associated with, bearing or  
3 packaged in the Skull Bottle Mark;

4           C. That Defendants jointly and severally be ordered to recall all goods,  
5 advertisements and promotional materials comprising, associated with, bearing or  
6 packaged in the Skull Bottle Mark from their present locations, including, but not  
7 limited to, locations owned by others;

8           D. That Defendants jointly and severally be required to account to  
9 Globefill for any and all profits derived by them and to compensate Globefill for all  
10 damages sustained by Globefill by reason of the acts complained of herein, and that  
11 such damages be trebled;

12          E. That Defendants jointly and severally pay Globefill's attorneys' fees,  
13 costs, and disbursements incurred in this action in view of the exceptional nature of  
14 this case due to the willful and intentional nature of the infringement;

15          F. Such other and further relief as the Court deems just.

16 Dated: March 19, 2010

BAKER & HOSTETLER LLP

  
17  
18  
19 C. Dennis Loemis  
20 Attorneys for Plaintiff  
GLOBEFILL INCORPORATED, a  
Canadian corporation  
21  
22  
23  
24  
25  
26  
27  
28

**JURY TRIAL DEMAND**

Plaintiff demands a jury trial as to all matters properly so tried.

Dated: March 19, 2010

BAKER & HOSTETLER LLP

C. Dennis Loomis  
Attorneys for Plaintiff  
GLOBEFILL INCORPORATED, a  
Canadian corporation

**BAKER & HOSTETLER LLP**  
ATTORNEYS AT LAW  
LOS ANGELES

# **EXHIBIT A**

**EXHIBIT A**



# **EXHIBIT B**

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2010-03-19 15:53:41 ET

**Serial Number:** [77693600 Assignment Information](#)

[Trademark Document Retrieval](#)

**Registration Number:** (NOT AVAILABLE)

**Mark**



(words only): [CRYSTAL HEAD](#)

**Standard Character claim:** No

**Current Status:** An office action suspending further action on the application has been mailed.

**Date of Status:** 2010-01-07

**Filing Date:** 2009-03-18

**Transformed into a National Application:** No

**Registration Date:** (DATE NOT AVAILABLE)

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 106

**Attorney Assigned:**

[AYALA LOURDES](#)

**Current Location:** L6X -TMEG Law Office 106 - Examining Attorney Assigned

**Date In Location:** 2010-01-07

---

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. [Globefill Incorporated](#)

**Address:**

[Globefill Incorporated](#)  
309 Alfred Street

Kingston, Ontario K7L3S4  
Canada

**Legal Entity Type:** Corporation  
**State or Country of Incorporation:** Canada

---

#### GOODS AND/OR SERVICES

---

**International Class:** 033

**Class Status:** Active

(Based on Intent to Use) Vodka(Based on 44(d) Priority Application) Vodka

**Basis:** 1(b), 44(d)

**First Use Date:** 2008-09-00

**First Use in Commerce Date:** 2008-09-00

---

#### ADDITIONAL INFORMATION

---

**Color(s) Claimed:** Color is not claimed as a feature of the mark.

**Description of Mark:** The mark consists of the front view of a bottle in the shape of a skull with a topper on the top of the bottle with the words "CRYSTAL HEAD" shown below it.

**Design Search Code(s):**

02.11.10 - Bones, human; Human skeletons, parts of skeletons, bones, skulls; Skulls, human

19.09.02 - Bottles, jars or flasks with bulging, protruding or rounded sides; Flasks with bulging or protruding sides; Jars with bulging or protruding sides

**Prior Registration Number(s):**

3602523

**Foreign Application Number:** 1418234

**Country:** Canada

**Foreign Filing Date:** 2008-11-13

---

#### MADRID PROTOCOL INFORMATION

---

(NOT AVAILABLE)

---

#### PROSECUTION HISTORY

---

**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2010-03-18 - Amendment to use processing complete

2010-03-18 - Amendment to Use filed

2010-03-17 - TEAS Amendment of Use Received

2010-01-07 - Notification Of Letter Of Suspension E-Mailed  
2010-01-07 - LETTER OF SUSPENSION E-MAILED  
2010-01-07 - Suspension Letter Written  
2009-12-17 - Teas/Email Correspondence Entered  
2009-12-17 - Communication received from applicant  
2009-12-17 - Assigned To LIE  
2009-12-09 - TEAS Response to Office Action Received  
2009-06-10 - Notification Of Non-Final Action E-Mailed  
2009-06-10 - Non-final action e-mailed  
2009-06-10 - Non-Final Action Written  
2009-06-09 - Assigned To Examiner  
2009-03-24 - Notice Of Design Search Code Mailed  
2009-03-23 - New Application Office Supplied Data Entered In Tram  
2009-03-21 - New Application Entered In Tram

---

#### ATTORNEY/CORRESPONDENT INFORMATION

---

**Attorney of Record**

John H. Weber

**Correspondent**

JOHN H. WEBER

BAKER & HOSTETLER

1050 CONNECTICUT AVE NW STE 1100

WASHINGTON, DC 20036-5304

Phone Number: 202.861.1500

Fax Number: 202.861.1783

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2010-03-19 15:54:24 ET

**Serial Number:** [77693594 Assignment Information](#)

[Trademark Document Retrieval](#)

**Registration Number:** (NOT AVAILABLE)

**Mark**



(words only): [CRYSTAL HEAD](#)

**Standard Character claim:** [No](#)

**Current Status:** An office action suspending further action on the application has been mailed.

**Date of Status:** 2010-01-07

**Filing Date:** 2009-03-18

**Transformed into a National Application:** [No](#)

**Registration Date:** (DATE NOT AVAILABLE)

**Register:** [Principal](#)

**Law Office Assigned:** [LAW OFFICE 106](#)

**Attorney Assigned:**

[AYALA LOURDES](#)

**Current Location:** [L6X -TMEG Law Office 106 - Examining Attorney Assigned](#)

**Date In Location:** 2010-01-07

---

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. [Globefill Incorporated](#)

**Address:**

[Globefill Incorporated](#)  
309 Alfred Street

Kingston, Ontario K7L3S4  
Canada

**Legal Entity Type:** Corporation  
**State or Country of Incorporation:** Canada

---

#### GOODS AND/OR SERVICES

---

**International Class:** 033

**Class Status:** Active

(Based on Intent to Use) Vodka(Based on 44(d) Priority Application) Vodka

**Basis:** 1(b), 44(d)

**First Use Date:** 2008-09-00

**First Use in Commerce Date:** 2008-09-00

---

#### ADDITIONAL INFORMATION

---

**Color(s) Claimed:** Color is not claimed as a feature of the mark.

**Description of Mark:** The mark consists of the side view of a bottle in the shape of a skull with a topper on the top of the bottle with the words CRYSTAL HEAD shown below it.

**Design Search Code(s):**

02.11.10 - Bones, human; Human skeletons, parts of skeletons, bones, skulls; Skulls, human

19.09.25 - Other bottles, jars or flasks

**Prior Registration Number(s):**

3602523

**Foreign Application Number:** 1418235

**Country:** Canada

**Foreign Filing Date:** 2008-11-13

---

#### MADRID PROTOCOL INFORMATION

---

(NOT AVAILABLE)

---

#### PROSECUTION HISTORY

---

**NOTE:** To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-03-18 - Amendment to use processing complete

2010-03-18 - Amendment to Use filed

2010-03-17 - TEAS Amendment of Use Received

2010-01-07 - Notification Of Letter Of Suspension E-Mailed

2010-01-07 - LETTER OF SUSPENSION E-MAILED

2010-01-07 - Suspension Letter Written

2009-12-17 - Teas/Email Correspondence Entered

2009-12-17 - Communication received from applicant

2009-12-17 - Assigned To LIE

2009-12-09 - TEAS Response to Office Action Received

2009-06-10 - Notification Of Non-Final Action E-Mailed

2009-06-10 - Non-final action e-mailed

2009-06-10 - Non-Final Action Written

2009-06-09 - Assigned To Examiner

2009-03-24 - Notice Of Design Search Code Mailed

2009-03-23 - New Application Office Supplied Data Entered In Tram

2009-03-21 - New Application Entered In Tram

---

#### ATTORNEY/CORRESPONDENT INFORMATION

---

**Attorney of Record**

John H. Weber

**Correspondent**

JOHN H. WEBER

BAKER & HOSTETLER

1050 CONNECTICUT AVE NW STE 1100

WASHINGTON, DC 20036-5304

Phone Number: 202.861.1500

Fax Number: 202.861.1783

---

# **EXHIBIT C**

**EXHIBIT C**



# **EXHIBIT D**

FEATURE ARTICLE

# KAH TEQUILA SPIRIT OF THE AFTER PARTY

by Ruth Hackman

*The new artisanal tequila is a true, down-to-Earth luxury accessible to all...*



Over the past couple of decades, we've seen tequila evolve from a spring break and game day staple to a myriad of spirits. Hit your favorite bar or retailer, and you'll find a tequila for everybody, from the urban hipster to the devoted foodie to a traditionalist Mexican grandparent paying his respects to his culture and heritage. Just like Mexican food, tequila is no longer a one-size-fits-all affair. Available in high end, budget priced, regionalized and, now, fresh organic variations, distillers now have tequilas designed for every type of tequila fan.

Kim Brandi and her company, Elements Spirits Inc., meanwhile, bucked trendiness in favor of launching KAH Tequila, which draws its inspiration from Mexico's Day of the Dead. This choice seems a little surprising at first glance. However, when one discovers that Day of the Dead (originated with the Aztecs 3,000 years ago) is actually a celebration of life, creating a tequila around it makes perfect sense.

"The word KAH literally means life when its translated into English from its original language," notes Brandi. "The hand-crafted bottles are also directly inspired by the motifs and sugar-fashioned skulls that decorate the festivities and represent the continued presence of the spirit. The experience of buying, drinking and even cooking with KAH is meant to be a metaphor for celebrating life whenever and wherever you can."

#### Rethinking History

Brandi carefully thought the concept through, starting with actual Day of the Dead festivities

observed in Mexico in the first week of November, coinciding with America's Halloween. The two holidays share many similarities, from skulls and spirit motifs to parties, parades, a seemingly endless supply of sweets and food, and the fact both holidays are observed as a no-holds-barred celebration of life.

While some Americans may find it strange to mix the concepts of death and festivities, for most Mexicans and Hispanic-Americans, the two ideas are inseparable. The indigenous peoples of Mexico kept tradition and culture alive by believing that the souls of their departed loved ones came back to visit with their living relatives. All guests, living and dead, are there to eat, drink and be merry. For this reason, people stage the festivities at cemeteries or decorate their homes with cheerfully decorated skull artwork. Day of the Dead also celebrates life and love that in many ways resembles Valentine's Day more than Halloween.

Graves, altars and the favorite foods and drinks of the departed are lovingly prepared by family and

# KAH TEQUILA™

KAH Tequila Blanco, is perfectly suited for classic warm weather cocktails and recipes involving fish and poultry, as it is characterized by an immediate full agave rush, followed by a spicy white pepper punch and an unusual pumpkin-floral finish.

KAH Tequila's Reposado is the perfect margarita foundation, with its balance of sweet notes, oak and agave.

KAH Anejo, meanwhile, is the perfect mate for barbequed meats and a post-BBQ cigar, with its subtle wood notes, smooth body, vanilla spice notes and sweet melon finish.

The KAH 4 1/2 year old Anejo limited edition bottle, meanwhile, not only bears the best of this precious liquid, but is cased in a bottle adorned with Swarovski crystals. Brandi and Melendez emphasize this incarnation is intended for special celebrations and has its own story of authenticity as skulls of noble families unearthed by archaeologists were found with gems embedded in them.

## SPIRIT OF THE AFTER PARTY continued

friends – candles are lit and incense is burned, providing the perfect backdrop for shared memories and prayers to call the dead to the party. Like any good party brimming with friends, family, good food and music, the festivities go well into the night, and sometimes until dawn. With America becoming more multi-cultural, in turn, the traditions have not only found their way into America via Mexican-American communities, but also in other countries around the world. In Prague, Czech Republic, for example, local citizens celebrate the Day of the Dead with masks, candles, and sugar skulls. Mexican-style

Day of the Dead celebrations can also be found in Wellington, New Zealand, complete with altars celebrating the deceased with flowers and gifts. Throughout the year and around the world, Day of the Dead motifs turn up in other pop cultural phenomena such as the popularity of tattoos, car culture, rock music cover art and high fashion.

"While the skull bottle definitively taps into Mexican tradition, it also strikes a nerve in our modern world," admits Brandi. "Celebrity tattoo artist Kat Von D's Day of the Dead tattoos are heavily influenced by these traditions, and now finding their way onto t-shirts and a cosmetic line available at Sephora. Lowrider Magazine recently dedicated a whole issue to Day of The Dead-inspired artwork and the Latino artists bring it to life stateside."

### The Life of The Party

Besides being culturally attuned and naturally curious about the world around her, the L.A.-based and New York City-bred Brandi boasts a multi-faceted background in magazine publishing, graphic design and product marketing—a triple threat that has made her a star in her field.

Through the years, Brandi has actively sought out opportunities to work with different producers of tequila—her spirit of choice. She describes this sensory journey as one that allows her to indulge in her passions, including different forms of Latino visual artwork and tequila tasting (especially the Añejo). Inspired by the artistry of two of L.A.'s top street artists, Javier Gonzales and Sandra Lugo, combined with the spiritual impact of Day of the Dead ultimately led her to bring KAH to life. The buzz about the bottles is already generating interest in product extensions such as KAH Style – a line of t-shirts and custom jewelry.

Chris Melendez, COO, Elements Spirits, Inc., agrees that KAH Tequila, by design, compels with real substance, including traditional Aztec and Meso-American observances of Day of the Dead, which in turn represent rebirth and new beginnings. KAH also offers life-affirming organic and Kosher certifications, enabling a greater number of people to discover what makes tequila an essential part of entertaining and appreciating life as they do in Mexico.

Melendez, who like Brandi, has gotten to know Mexican culture intimately through his work, points out that in rural

Mexico, Day of the Dead is very much an institution. It was as important to him as it was to Brandi that both the tequila's manufacture and its bottles capture that enduring spirit, from each variety's distinctive design to the quality of the flavors inside.

"The steps taken to garner these certifications insure high quality, and superior taste that will reflect well on the host serving the drinks," he says.

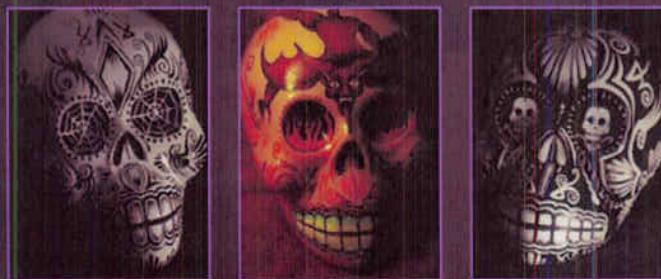
"Furthermore, I think people will appreciate that the production facility is one of the few environmentally correct distilleries in Mexico, using its own water from its private artesian well on property. This aspect is combined with over 50 years of distilling and

aging expertise."

While Melendez enjoys drinking the various varieties of KAH, he also proclaims he enjoys making a Tequila pasta with the KAH Reposado, roasting peppers and chilies on the grill, letting them cool, peeling them, placing them in a blender with shallots, chives, and garlic and finally pureeing the mix with KAH Reposado. After reducing the sauce by 30% in a hot skillet and simmering it with grilled, shredded chicken, he places it on top of al dente linguini and pairs it with a glass of the Reposado.

Tequila and cooking are synonymous in today's elite culinary circles and increasingly so in the American diet. More and more often, you are seeing food pairings with tequila. KAH's originality as a tequila with historical roots, combined with its artisanal qualities make it even more of a perfect fit with a variety of foods. Though you could buy a spirit with a tie to some celebrity, most true tequila fans are seeking out an authentic product like KAH, which has a history, a story, and a very high degree of quality.

*Join the After Party by texting KAH to 53137.*



**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Consuelo B. Marshall and the assigned discovery Magistrate Judge is Paul Abrams.

The case number on all documents filed with the Court should read as follows:

**CV10- 2034 CBM (PLAX)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

**=====**  
**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

Western Division  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

Southern Division  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

Eastern Division  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

C. DENNIS LOOMIS (SBN 82359)  
 BAKER & HOSTETLER LLP  
 12100 Wilshire Boulevard, 15<sup>th</sup> Floor  
 Los Angeles, California 90025  
 Telephone: (310) 820-8800  
 Facsimile: (310) 820-8859

**COPY**

Attorneys for Plaintiff Globefill Incorporated, a Canadian corporation

**UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA**

GLOBEFILL INCORPORATED, a Canadian corporation

CASE NUMBER

*CBM*

PLAINTIFF(S)

*CV10 2034 ◀ PLA*

v.

ELEMENTS SPIRITS, INC., a California corporation;  
 KIM BRANDI, an individual

DEFENDANT(S).

SUMMONS

TO:DEFENDANT(S): ELEMENTS SPIRITS, INC. and KIM BRANDI

A lawsuit has been filed against you.

Within 7 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached  complaint  amended complaint  counterclaim  cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Baker & Hostetler LLP, whose address is 12100 Wilshire Boulevard, 15<sup>th</sup> Floor Los Angeles, California 90025. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: MAR 22 2010

By: CHRISTOPHER POWERS  
 Deputy Clerk  
*(Seal of the Court)*

*SEAL*

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3).]

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**COPY**

I (a) PLAINTIFFS (Check box if you are representing yourself  )  
**GLOBEFILL INCORPORATED**, a Canadian corporation

DEFENDANTS  
**ELEMENTS SPIRITS, INC.**, a California corporation; **KIM BRANDI**, an individual

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)  
**C. Dennis Loomis (Bar No. 82359)**  
**BAKER & HOSTETLER LLP**  
**12100 Wilshire Boulevard, 15<sup>th</sup> Floor**  
**Los Angeles, California 90025**  
**(310) 820-8800**

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an X in one box only.)

- |                                                      |                                                                                      |
|------------------------------------------------------|--------------------------------------------------------------------------------------|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)   |

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only  
(Place an X in one box for plaintiff and one for defendant.)

	PTF	DEF	PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4 <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

## IV. ORIGIN (Place an X in one box only.)

- |                                                           |                                                     |                                                          |                                                   |                                                                         |                                                      |                                                                           |
|-----------------------------------------------------------|-----------------------------------------------------|----------------------------------------------------------|---------------------------------------------------|-------------------------------------------------------------------------|------------------------------------------------------|---------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify): | <input type="checkbox"/> 6 Multi-District Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge |
|-----------------------------------------------------------|-----------------------------------------------------|----------------------------------------------------------|---------------------------------------------------|-------------------------------------------------------------------------|------------------------------------------------------|---------------------------------------------------------------------------|

V. REQUESTED IN COMPLAINT: JURY DEMAND:  Yes  No (Check 'Yes' only if demanded in complaint.)CLASS ACTION under F.R.C.P. 23:  Yes  No MONEY DEMANDED IN COMPLAINT: \$ According to proofVI. CAUSE OF ACTION (Cite the U. S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
**Trademark Infringement 15 U.S.C. §1125(a)**

## VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS - PERSONAL INJURY	TORTS - PROPERTY	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 520 General	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 530 Death Penalty	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/ Other	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 22 Appeal 28 USC 158	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> PROPERTY RIGHTS
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 850 Securities/Commodities/ Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> SOCIAL SECURITY
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 61 HIA(1395ff)
<input type="checkbox"/> 891 Agricultural Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 660 Occupational Safety /Health	<input type="checkbox"/> 660 Occupational Safety /Health	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 863 DIWC/DIWV 405(g))
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 240 Torts to Land		<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 245 Tort Product Liability		<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> FEDERAL TAX SUITS
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 950 Constitutionality of State Statutes			<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
			<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 446 American with Disabilities - Other	
			<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 440 Other Civil Rights	

FOR OFFICE USE ONLY: Case Number:

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed?  No  Yes

If yes, list case number(s): \_\_\_\_\_

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case?  No  Yes

If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

(Check all boxes that apply)  A. Arise from the same or closely related transactions, happenings, or events; or

B. Call for determination of the same or substantially related or similar questions of law and fact; or

C. For other reasons would entail substantial duplication of labor if heard by different judges; or

D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.  
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District: <sup>*</sup>	California County outside of this District; State, if other than California; or Foreign Country
	Canada

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.  
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District: <sup>*</sup>	California County outside of this District; State, if other than California; or Foreign Country
Elements Spirits, Inc. - Los Angeles County Kim Brandi - Riverside County	

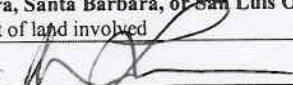
- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District: <sup>*</sup>	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):

  
C. Dennis Loomis

Date March 19, 2010

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))